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8 **UNITED STATES DISTRICT COURT FOR THE WESTERN**
9 **DISTRICT OF WASHINGTON AT SEATTLE**

10 ADLEY SHEPHERD, an individual;

11 Plaintiffs,

12 v.

13 CITY OF SEATTLE, a Washington
14 Municipality; and the SEATTLE POLICE
15 DEPARTMENT; and DOES 1 to 10
inclusive;

16 Defendants.
17

Case No.

PLAINTIFF'S COMPLAINT

JURY TRIAL DEMANDED

18
19 COMES NOW the Plaintiff, by and through his attorneys of record, and states and
20 alleges against the above-named Defendant as follows:

21 **PARTIES & JURISDICTION**

22 1. Plaintiff ADLEY SHEPHERD (hereinafter "**Mr. Shepherd**" or
23 "**Plaintiff**") is an individual who resides in Pierce County, Washington but who was
24 gainfully employed by the Seattle Police Department for over a decade.
25

26 2. Defendants CITY OF SEATTLE and SEATTLE POLICE DEPARTMENT
27 (hereinafter "**SPD**" or "**Defendant**") is a Washington Municipality.
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1 3. Plaintiff does not know the true names and capacities of the defendants
2 sued herein as DOES 1 through 10 (“**DOE Defendants**”), inclusive, and therefore sues
3 said DOE Defendants by fictitious names. Plaintiff is informed and believes and based on
4 such information and belief avers that each of the DOE Defendants is contractually,
5 strictly, negligently, intentionally, vicariously liable and or otherwise legally responsible
6 in some manner for the acts and omissions described herein. Plaintiff will amend this
7 Complaint to set forth the true names and capacities of each DOE Defendant when same
8 are ascertained.
9

10 5. Plaintiff is informed and believes and based on such information and belief
11 avers that Defendants SPD and DOE Defendants 1 through 10, inclusive, and each of
12 them, are and at all material times have been, the agents, servants or employees of each
13 other, purporting to act within the scope of said agency, service or employment in
14 performing the acts and omitting to act as averred herein.
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16 6. Each of the Defendants named herein are believed to, and are alleged to
17 have been acting in concert with, as employee, agent, co-conspirator or member of a joint
18 venture of, each of the other Defendants, and are therefore alleged to be jointly and
19 severally liable for the claims set forth herein, except as otherwise alleged.
20

21 4. This court has subject matter jurisdiction over this matter, pursuant to 42
22 U.S.C. §§ 1981 and 2000e et seq. This court has supplemental jurisdiction over the
23 Washington state law claims, pursuant to 28 U.S.C. § 1367. This court has personal
24 jurisdiction over the parties, as they are all residents of the Western District of
25 Washington.
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1 5. Venue is proper in this court, pursuant to 28 U.S.C. § 1391(a)(2), because a
2 substantial portion of the events or omissions giving rise to this claim occurred in the
3 Western District of Washington and all the parties are residents of the Western District of
4 Washington.

5 6. Former Police Officer Shepherd filed a claim with the City of Seattle that
6 was quickly denied with a letter letting him know to protect his rights going forward.

7 7. Former Police Officer Shepherd respectfully demands a trial by jury,
8 pursuant to LR 38(b).
9

10 **FACTS AND BACKGROUND**

11 8. It is important that the all the facts leading up to this action are detailed
12 here so as to understand the events and circumstances that led to this Complaint.
13

14 9. The Plaintiff, Former Police Adley Shepherd (hereinafter “Shepherd” or
15 “Plaintiff”), joined the Seattle Police Department (hereinafter “SPD”) as a police officer in
16 2005. At that time, he had just completed a career in the military. During his time in the
17 military, he was deployed in both Iraq and Afghanistan. During his career with the SPD,
18 he worked primarily out of the South and Southwest Precincts and held several
19 assignments, including in patrol, the TRU training unit, and community outreach.
20

21 10. During the time of the incident that led to his wrongful termination, in June
22 2014, he was working patrol out of the South Precinct of Seattle.
23

24 11. The incident that led to his wrongful termination occurred in the early
25 morning hours of June 22, 2014. A lady named Ms. Evelyn Shelby (hereinafter “Shelby”)
26 called 911 and reported that a 22-year-old female “was going to come to her house and
27 fight her son.” During this call, the dispatcher could hear yelling in the background, but
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1 the phone was eventually disconnected. When dispatcher called Shelby back, Shelby
2 informed the dispatcher that her son had unplugged the phone. At that time, dispatch sent
3 a broadcast regarding the disturbance and officers responded.

4 12. Shepherd was the first to arrive at the scene. There was a male person
5 outside the house pacing around when he arrived who became annoyed and upset when he
6 realized that police had arrived. He showed his annoyance by smacking his head and then
7 running his hand over the top of his head.

9 13. Shepherd proceeded to contact the male who identified himself as Mr.
10 Robert Shelby, Ms. Evelyn Shelby's son (hereinafter "Robert"). As Shepherd approached
11 Robert, he introduced himself and advised him that he was being audio and video
12 recorded as required by rule. Robert was agitated while he smoked a cigarette and
13 explained that he was trying to have a normal conversation with his "baby mama" when
14 things escalated. To avoid further escalation, Robert left the location they had been at and
15 went home to his mother's house. However, Ms. Miyekko Durden-Bosley (the mother of
16 Mr. Robert Shelby's child) (hereinafter "Durden-Bosley") would not leave him alone and
17 began calling him.

20 14. During the conversation between Shepherd and Robert, Robert received
21 several phone calls. On one of the calls, Robert told the person on the line that he was at
22 home and that his mother had called the police. On the next call, he told the person that he
23 was still at home and to go ahead and laugh. He was noticeably annoyed at the caller.
24 Shepherd suspected that it was Durden-Bosley contacting him, so he asked Robert if she
25 was still calling. Robert confirmed that it was Durden-Bosley who was calling him and
26 said that she thought this "shit is so funny."
27
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1 15. Upon confirming that it was Durden-Bosley still contacting Robert,
2 Shepherd inquired as to what she was being said on the phone calls. Robert told Shepherd
3 that she was calling him a “bitch ass nigger and all types of shit.” Shepherd viewed these
4 as fighting words. Shepherd then asked if there were any threats and Robert responded, “I
5 hope not. I don’t know what she’d do. I don’t know what the fuck she’s going to do. I
6 don’t know what the fuck’s going to happen.” Shepherd then asked Robert whether his
7 mother was safe to which Robert responded, “Hopefully . . . Actually, I’m pretty sure she
8 is. Nobody’s gonna ...” Shepherd then asked whether there was a restraining or protection
9 order in place or any history of domestic violence. Id. Mr. Robert Shelby stated, “Not, I’m
10 sure, on the record nothing.”
11

12 16. Next, Officer Shepherd left Robert with other officers who had arrived on
13 scene to speak with his mother in the house. Shelby reported that she heard the two of
14 them yelling and screaming on the phone, and Durden-Bosley “sayin’ that she’s gonna
15 come down here (to the Shelby residence), and she’s gonna beat his ass, and this and
16 that.” Shepherd asked whether the two have a history of domestic violence, and she
17 confirmed, “[Y]es. They’ve been at it before, arguing and fighting like this.”
18

19 17. At this point, Durden-Bosley was not present at the residence, so Shepherd
20 confirmed that all Shelby heard was a verbal argument over the phone. Shelby confirmed
21 this to be true and said that she asked Robert what was going on and he told her, “She’s
22 going to come down here, and she’s going to fight me because she did me dirty. Fine. I’m
23 waiting.”
24

25 18. Piecing this all together, Shepherd told Shelby that he would update the
26 call. He explained that if both Durden-Bosley Robert were at the residence he could write
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1 up a police report, but Durden-Bosley was not present. Shelby indicated that she
2 understood and said again that her concern was Durden-Bosley threatening to come over
3 to the house.

4 19. As Shepherd exited the house, he learned that Durden-Bosley had arrived
5 at the Shelby residence. He could see Robert walking on the sidewalk headed away from
6 the house, being followed closely by a woman. It looked as though the woman was trying
7 to get Robert's attention; however, he was changing directions trying to get away from
8 her.
9

10 20. Confirming the woman was Durden-Bosley, her presence concerned
11 Shepherd as the initial call had been for a domestic disturbance of threats of domestic
12 violence. Now, the individual who had made the alleged threat had taken the substantial
13 step of showing up at the residence. Shepherd believed he may now be dealing with a
14 crime.
15

16 21. Shepherd called out to Durden-Bosley, asking her to come speak with him.
17 He introduced himself to her and asked her what was going on. Durden- Bosley stated,
18 "Nothing. We have no beef. This is no beef prior, so ." At this point, Shepherd could
19 smell alcohol and suspected she was intoxicated, so he asked her whether she drove to the
20 location. Durden-Bosley responded that she had walked to the location and then asked a
21 number of questions about whether she was legally allowed to walk.
22

23 22. Trying to focus Durden-Bosley, he asked her again why she was at the
24 residence. To separate Durden-Bosley and Robert and gain better control of the scene, he
25 requested that Durden-Bosley speak with him near his patrol Explorer. Durden-Bosley
26 tried to keep walking past the vehicle and would not stop when asked, so he reached for
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1 her arm and guided her back so he could further investigate. He then explained that it had
2 been reported that she threatened Robert, including a threat to come to his house. Durden-
3 Bosley stated that she did not threaten him, asked what evidence Shepherd had that she
4 threatened to come to the house, and became upset.

5
6 23. Shepherd attempted to de-escalate and calm her down. He asked her to take
7 a minute and “take some hee-hee-hoos” to breathe and calm down. He told her to relax
8 and go to her happy place.

9
10 24. Next, he inquired about the reported threat and told her that she had scared
11 Shelby. This agitated Durden-Bosley. She began yelling towards the house to Shelby. This
12 caused Robert to begin shouting at Durden-Bosley, “Don’t fucking [yell] at my mom like
13 that, bro. You already called her a fucking bitch, dawg Just fucking, just handle shit
14 cordially for once, man.” The scene and situation had become more out of control and
15 were starting to spiral.

16
17 25. Shepherd continued questioning Durden-Bosley until Robert began
18 shouting at his mother. Shepherd told Durden-Bosley to stay where she was and walked
19 over to Robert. He told Robert not to yell at his mother, meanwhile Durden-Bosley was
20 making comments about Shepherd’s and Robert’s contact.

21
22 26. Finally, Shepherd told Robert and Durden-Bosley, “My patience is done.
23 It’s done. It’s . . . over. So somebody’s going to go to jail. Who’s it going to be?” “We can
24 do eeny-meeny-mi ”. This was an attempt to de- escalate and change their behavior. He
25 was putting them on notice that he was serious and the situation was serious. He needed
26 them to calm down, listen to his instructions, and start answering his questions so that he
27

1 could continue his investigation into whether threats had been made and whether there had
2 been an assault during the initial fight that evening.

3 27. It was Shepherd's opinion that he could not leave the scene without making
4 sure there was some resolution. Both subjects were angry, had been yelling, and were mad
5 at Shelby; and there was a reported threat of violence.
6

7 28. Durden-Bosley started arguing again, this time that "nobody touched
8 anybody" so he could not take them to jail. Shepherd explained that, at this point, it did
9 not matter. She had threatened to come over to the Shelby residence to commit violence
10 and then came to the house.
11

12 29. He decided to place her under arrest. He moved towards Durden- Bosley
13 and took control of her right hand for handcuffing. She became rigid and resisted by
14 pulling away and leaning back against the hood of the patrol Explorer. At the same time,
15 she kept telling him not to touch her and repeatedly asked him why she was under arrest.
16 Another officer on-scene, Officer Griffin, who was helping Shepherd conduct the arrest,
17 explained once again that it was reported that she had made a threat. Durden-Bosley again
18 started yelling at Shelby.
19

20 30. With Durden-Bosley in handcuffs, the officers tried placing her in the back
21 of the patrol Explorer. Shepherd repeatedly directed her verbally to get in the vehicle. She
22 did not comply; instead, she twisted her body, resisting getting into the vehicle. At that
23 point, Officer Griffin tried to calm her down again. He explained that they were going to
24 take her down to the precinct to document the charges.
25

26 31. The officers could not get her to calm down or enter the vehicle. She
27 continued twisting her body. Eventually, Shepherd placed her in the vehicle. He put his
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1 hand on the top of her head, tried to control her wrists, and pushed down. He lost control
2 of the handcuffs and she spun, positioning herself so that she was facing him.

3 32. She raised her right leg, brought her heel up so that it was facing Officer
4 Shepherd, and kicked him in the jaw, while yelling, "Fucking Bitch." Everything
5 happened very quickly. Immediately, he felt a tremendous amount of sharp, shooting pain
6 in his jaw, felt and heard his jawbone pop, felt numbing, and heard a high pitch ringing in
7 his ears. The kick knocked him off balance and pushed him backwards about a foot
8

9 33. Immediately after kicking him, Durden-Bosley moved towards him again.
10 The video analysis reveals, after kicking Shepherd, she moved towards the vehicle door,
11 where Shepherd was located, started putting her foot down towards the ground, and then
12 brought it up again towards Officer Shepherd. He needed to act to protect himself, stop the
13 assault, and prevent her from getting out of the vehicle.
14

15 34. Shepherd delivered one punch to stop her and used the momentum from the
16 punch to hold her down and gain control of her handcuffs. Durden-Bosley kept kicking
17 and eventually came under control.
18

19 35. Shepherd asked Officer Griffin to take over because he was still working
20 through the effects of the kick and requested that a sergeant come to the scene because he
21 had used force. Eventually, both Shepherd and Durden-Bosley were transported to the
22 hospital for examinations.
23

24 36. People who saw Shepherd that night after the kick described him as being
25 dazed, in a lot of pain, unable to focus, and saw swelling on his jaw. Clearly, the kick to
26 his face had been significant.
27
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1 37. A couple of days later, Shepherd was placed on administrative leave
2 pending an investigation into his use of force. This occurred on the day that Chief O'Toole
3 was sworn in as the Chief of Police. Chief O'Toole asked the head of the Washington
4 State Patrol to conduct a criminal investigation into Officer Shepherd's use of force. This
5 criminal investigation led to a prosecutor's decline, stating some level of force was
6 necessary, as Durden-Bosley had resisted arrest and assaulted him. Next, the case went to
7 the Department of Justice to determine whether he willfully violated Durden-Bosley's
8 civil rights, by using excessive force. The FBI investigated what happened, and the
9 Department of Justice determined that there was no violation of the federal civil rights
10 laws.
11

12 38. At this point, the SPD began its administrative investigation into Officer
13 Shepherd's use of force. It was determined that all of his actions were within policy, with
14 the exception of the single-strike he used to stop Durden-Bosley's assault and potential
15 escape.
16

17 39. For the single-strike, Chief O'Toole terminated Officer Shepherd's
18 employment. Pursuant to the collective bargaining agreement, the SPOG appealed the
19 termination for lack of just cause. The Disciplinary Review Board (hereinafter "DRB")
20 heard evidence on June 25, 26, 27, 28, and 29, 2018 in Seattle, Washington.
21

22 40. The DRB found that, in reviewing these facts above, while the use of force
23 was questionable, the penalty of termination was unduly severe. While the DRB usually
24 adhered to the principle of deferring to management's judgment of the appropriate penalty
25 once misconduct had been proven, the penalty of termination was unduly severe in this
26 instance and was inappropriate and disproportional to the offense when considering the
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1 totality of the circumstances of this incident which included a review of the fact that
2 Shepherd's training under the new rules of the SPD was inadequate and the fact the use of
3 question of the appropriateness of the use of force involved was a close call either way.
4 Additionally, the DRB found that the SPD did not employ progressive discipline as
5 required under their contract with the Seattle Police Guild.
6

7 41. In more detail, the DRB looked at the following factors as detailed in their
8 ruling:

9 A) The following circumstances served to mitigate the seriousness of
10 Shepherd's offense:

- 11 i. Shepherd had been kicked in the fact by Durden-Bosley with her boots
12 and had felt stinging pain.
- 13 ii. Another officer had not assisted Shepherd in putting Durden-Bosley in
14 the back of the patrol car even though is was called for in this instance.
- 15 iii. Shepherd only had seconds to assess the situation and consider his
16 options based on the circumstances detailed above after being kicked in
17 the face by Durden-Bosley and seeing what a reasonable officer could
18 have perceived to be an escape attempt by Durden-Bosley.
- 19 iv. Shepherd had spent time using de-escalation tactics on Durden-Bosley
20 to no avail.
- 21 v. Shepherd had only landed one blow, perhaps reflexively, to Durden-
22 Bosley and then stopped.
- 23 vi. Durden-Bosley stopped resisting at that point and the situation calmed
24 down.
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1 vii. The assessment of reasonable force in this case appeared to be one
2 where reasonable minds could differ as there was testimony from other
3 SPD officers that Shepherd's use of force was reasonable, necessary and
4 appropriate and not a violation of policy.
5

6 B) Training Considerations

7 i. It was found by the DRB that Shepherd was trained to respond exactly
8 as he did. The quote from the training officer was that "If someone hits
9 you...You hit them back..." This training was still in effect well after
10 this incident with Shepherd and Durden-Bosley.
11

12 ii. This training office also testified that Shepherd's use of force was
13 appropriate under SPD policy.

14 iii. In totality, Shepherd used force that he not only believed was warranted
15 based on his training but, the use of force was required under SPD
16 policy and training.
17

18 C) There were no prior or subsequent disciplinary actions exactly comparable
19 to Shepherd's by the SPD or the City of Seattle. While discipline has been
20 handed down at times for public incidents, no one has been discharged or
21 terminated for similar actions – even those that became public.
22

23 D) The DRB looked to Shepherd's prior discipline and found the following:

24 i. The SPD had placed great weight on a prior 10-day suspension for an
25 incident not involving use of force at all. The suspension was for a
26 difficult call made by Shepherd, with his supervisor's input, where he
27 released an arrestee in a domestic disturbance incident involving
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1 roommates who then went back to the home and murdered his
2 roommate. The DRB found this to be an entirely different matter. They
3 did not say that it would be something that could never be considered
4 when looking at progressive discipline but that, even if it was
5 considered as a prior discipline for that purpose, the next step in
6 progressive discipline would not require discharge or termination.
7

8 ii. Shepherd had never been disciplined for anything other than that one
9 ten day suspension until this discharge and termination.

10 iii. The SPD seemed to be even more upset that Shepherd would not admit
11 he violated City Policy. The DRB reasoned that there was no reason for
12 him to acknowledge a violation he did not believe he committed. This
13 was especially true when the training officer and others testified he had
14 not violated policy.
15

16
17 E) Shepherd had a good record of employment with the City as detailed in
18 testimony and his official record.

19 F) Political motivations appeared to be at play here. The DRB noted that
20 perhaps Shepherd's termination was meant to be a message to the public, the
21 Court Monitor and DOJ and SPD officers that it was taking its use of force
22 policies seriously. However, since that time, there have been several high-profile
23 use of force incidents that have gone unpunished or only resulted in short
24 suspensions. Shepherd believes those were likely warranted and was definitely
25 warranted in his case as well.
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1 42. The DRB concluded that the penalty of discharge was excessive in
2 Shepherd's case after taking into account the various mitigating considerations and other
3 factors. The DRB felt an significant suspension was more appropriate even though
4 determining the length would be challenging. In the end, the DRB concluded that a 15-day
5 suspension was appropriate.
6

7 43. The issue should have ended there but, the SPD and the City of Seattle, for
8 reasons only they know, persisted to appeal the ruling of the DRB in order to terminate
9 Shepherd.
10

11 44. In appealing, Shepherd was denied the ability to bring forth evidence which
12 would have again confirmed that, at minimum, his discharge and termination were not
13 warranted.
14

15 45. Shepherd brings this case to shed light on his wrongful termination and to
16 prove that he has been damaged as a result of the Defendants' vendetta against him and
17 his unfair and unequal treatment by Defendants along with their egregious breach of the
18 contracts they have with the Seattle Police Guild of which Shepherd was a member at the
19 time of their wrongful actions against him. As a member of the Seattle Police Guild,
20 Shepherd brings claims for breaches of the Contracts the Seattle Police Guild has with the
21 City of Seattle that have directly violated his rights and protections under those contracts.
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23

24 **FIRST CAUSE OF ACTION**

25 **Negligence**

26 46. Plaintiff re-alleges and incorporates by reference herein all of the
27 allegations contained in paragraphs 1-45 above.
28

1 47. The Defendant owed a duty to the Plaintiff to follow the agreements they
2 had with the Seattle Police Guild and their employees and to not allow its representatives
3 by

- 4 a. Improperly training Shepherd;
5
6 b. Improperly pursuing a vendetta against Shepherd for some unknown reason
7 in order to discharge and terminate him in violation of their own rules and
8 procedures;
9
10 c. Failing to follow their own precedent established both before and after
11 Shepherd's incident for handling a violent arrestee who assaults an officer;
12 and
13 d. Improperly refuse to follow the ruling/findings of the DRB and continue to
14 pursue Shepherd's discharge and termination when Defendants never
15 pursued or pursue that level of discipline against other officers in similar
16 and public incidents like the one involving Shepherd;

17
18 48. The Defendant, its agents, contractors and/or employees breached its duty
19 of care when they acted or failed to act as detailed above. Those incidents are not all-
20 inclusive but just a summary of some of the failed actions/inactions of Defendants in this
21 matter.
22

23 49. The Plaintiff was damaged as a direct and proximate result of the actions of
24 the Defendant, its agents, contractors and/or employees in an amount to be proven at trial.
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SECOND CAUSE OF ACTION

Negligence – Failure to Supervise (Seattle Police Department)

50. Plaintiff re-alleges and incorporates by reference herein all of the allegations contained in paragraphs 1-49 above.

51. Seattle Police Department had a duty to supervise its employees to ensure they properly conducted required training in an expeditious manner, did not carry out vendettas against fellow employees and properly trained officers on what use of force they allowed under all circumstances.

52. Further, SPD had a duty to ensure discipline was meted out fairly and evenly at all times and was not excessive in any particular circumstances in relation to other similar circumstances.

53. SPD breached its said duty by failing to supervise the employees who trained Shepherd and other officers that they would not allow the use of force they encouraged Shepherd to use in this instance. Shepherd was trained to use this level of force and then subsequently discharged and terminated when he did so.

54. SPD also routinely handed out and still hands out short suspensions for similar and equally public uses of force instead of termination. In those cases, the City of Seattle has never stepped in to pursue discharge and termination of an officer as they did with Shepherd.

55. The Plaintiff was damaged as a direct and proximate result of the actions of the Defendant, its agents, contractors and/or employees in an amount to be proven at trial.

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THIRD CAUSE OF ACTION
BREACH OF CONTRACT

56. Plaintiff re-alleges and incorporates by reference herein all of the allegations contained in paragraphs 1-55 above.

57. When Plaintiff joined the SPD, he was a party to the contract between the Seattle Police Guild and the City of Seattle.

58. Defendants breached their duty to Plaintiff by pursuing his discharge and termination without considering the standards under the law of giving deference to officers under duress due to the limited time (in this case no more than 2 seconds) the officers have to make critical decisions involving their safety and the safety of the public when confronted by a violent and out of control person or persons.

59. In the only proceeding where all the facts were considered, including the training involved for Shepherd, the immense public pressure on the political figures pursuing Shepherd's discharge and termination, and the disproportional punishment meted out to Shepherd in relation to other similar and public incidents where only suspensions had been and are still levied, Shepherd was properly proven to be right in that the punishment was overly severe, even if one came to the difficult conclusion that he used too much force.

60. Any reasonable party in Defendant's shoes would have ensured the punishment, if even meted out, was the same or similar as those officers in a similar predicament.

1 61. In failing to do so, as would a reasonable party in Defendant's shoes,
2 Defendant breached its contract with Plaintiff as a Third-Party Beneficiary of the contract
3 between the City of Seattle and the Seattle Police Guild.

4 62. Instead, Defendant made the problem worse by creating a situation where
5 Shepherd is now unemployed and stained with the general idea he did something to
6 warrant discharge and termination even where he followed his training as testified to in
7 the DRB hearing by the training officer.

8 63. Plaintiff brings this claim for the compensatory damages, attorney's fees,
9 costs, and other damages that Plaintiff experienced as a direct and proximate result of
10 Defendants' breach of contract. These damages and attorney's fees and costs are in an
11 amount to be proven at trial.
12

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15 **FOURTH CAUSE OF ACTION**
16 **BREACH OF DUTY OF GOOD FAITH AND FAIR DEALING**

17 64. Plaintiff re-alleges and incorporates by reference herein all of the
18 allegations contained in paragraphs 1-63 above.

19 65. At all material times, the contract between the City of Seattle and the
20 Seattle Police Guild, of which Shepherd was a party to by way of his employment with the
21 SPD, contained an implied covenant of good faith and fair dealing.

22 66. Defendant breached their implied duty of good faith and fair dealing when
23 Defendant failed to properly perform their duties under the contract with the Seattle Police
24 Guild to a reasonable standard.
25

26 67. Plaintiff brings this claim for the monetary losses, lost interest, attorney
27 fees, costs, and other damages that Plaintiff experienced as a direct and proximate result of
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1 the Defendants' breach of its implied duty of good faith and fair dealing. These damages
2 and attorney's fees and costs are in amount to be proven at trial.

3 **FIFTH CAUSE OF ACTION**
4 **NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

5 68. Plaintiff re-alleges and incorporates by reference herein all of the
6 allegations contained in paragraphs 1-67 above.

7 69. The Defendants owed a duty to the Plaintiff to act as a reasonable and
8 prudent municipality in preventing any action that resulted in his discharge and termination
9 for actions other officers had been and continue to be only suspended for.

10 70. The Defendants, its agents, contractors and/or employees failed to properly
11 apply their discipline procedures in a fair, equitable, and reasonable manner.

12 71. The Defendants' actions were taken with a gross disregard for the Plaintiff's
13 rights and were so severe and outrageous so as to shock the conscience and cause the
14 Plaintiff severe emotional distress, embarrassment and ridicule.

15 72. The Plaintiff was damaged as a direct and proximate result of the actions of
16 the Defendants, its agents, contractors and/or employees. The Plaintiff's emotional distress
17 includes, but is not limited to, anxiety and a loss of sleep and are in an amount to be proven
18 at trial.

19 **SIXTH CAUSE OF ACTION**
20 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

21 73. Plaintiff re-alleges and incorporates by reference herein all of the
22 allegations contained in paragraphs 1-72 above.

1 74. The Defendants owed a duty to the Plaintiff to act as a reasonable and
2 prudent municipality in preventing any action that resulted in his discharge and termination
3 for actions other officers had been and continue to be suspended for.

4 75. The Defendants' actions were taken with a gross disregard for the Plaintiff's
5 rights and were so severe and outrageous so as to shock the conscience and cause the
6 Plaintiff severe emotional distress, embarrassment and ridicule.

7 76. The Plaintiff was damaged as a direct and proximate result of the actions of
8 the Defendants, its agents, contractors and/or employees. The Plaintiff's emotional distress
9 includes, but is not limited to, anxiety and a loss of sleep and are in an amount to be proven
10 at trial.
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14 **SEVENTH CAUSE OF ACTION**
15 **§§ 1981 and 2000e et seq. and RCW 49.60 et seq.**

16 77. Plaintiff re-alleges and incorporates by reference herein all of the
17 allegations contained in paragraphs 1-76 above.

18 78. Officer Shepherd is male and African American.

19 79. During his employment with defendants City and SPD, Officer Shepherd has
20 been subjected to adverse employment decisions and disparate treatment based on his race.
21

22 80. Officer Shepherd has performed his duties as an SPD Officer well enough to
23 confirm that defendants' conduct was not due to inadequate performance or any other lawful
24 reason. Additionally, other officers who are not African American have been accused of
25 similar questionable use of force incidents and were never terminated either before or since
26 Shepherd's incident.
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1 81. Defendants' conduct constitutes racial discrimination against Officer
2 Shepherd in violation of 42 U.S.C. §§ 1981 and 2000e et seq. and RCW 49.60. et seq.

3 82. As a direct, proximate and foreseeable result of defendants' discriminatory
4 and unlawful conduct, Officer Shepherd has suffered injury and damage. By way of
5 example, Officer Shepherd's damages include, but are not limited to, loss of pay and wages,
6 benefits, loss of career advancement and earning capacity, and non-economic injuries. At
7 least a portion of Officer Shepherd's damages are liquidated sums for which defendants owe
8 prejudgment interest. The nature and extent of Officer Shepherd's injuries and damages will
9 be proven at time of trial or other hearing.
10

11
12 **EIGHTH CAUSE OF ACTION**
13 **Hostile Work Environment Based on Race in Violation of 42 U.S.C. §§ 1981 and 2000e**
14 **et seq. and RCW 49.60. et seq**

15 83. Plaintiff re-alleges and incorporates by reference herein all of the
16 allegations contained in paragraphs 1-82 above.

17 84. During his employment with defendants, Officer Shepherd has been
18 subjected to improper disciplinary and punitive measures imposed by the defendants.
19 Defendants' unlawful conduct was based on his race and in retaliation against him, because
20 of his lawful efforts to remedy defendants' improper disciplinary and punitive conduct
21 toward him.
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23 85. Defendants' conduct has created a hostile work environment.

24 86. Defendants' conduct constitutes a hostile work environment in violation of
25 42 U.S.C. §§ 1981 and 2000e et seq. and RCW 49.60. et seq.
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1 87. As a direct, proximate and foreseeable result of defendants' discriminatory
2 and unlawful conduct, Officer Shepherd has suffered injury and damage. By way of
3 example, Officer Shepherd's damages include, but are not limited to, loss of pay and wages,
4 benefits, loss of career advancement and earning capacity, and non-economic injuries. At
5 least a portion of Officer Shepherd's damages are liquidated sums for which defendants owe
6 prejudgment interest. The nature and extent of Officer Shepherd's injuries and damages will
7 be proven at time of trial or other hearing.
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11 **PRAYER FOR RELIEF**

12 WHEREFORE, Plaintiffs pray for relief as follows:

- 13 1. That the Court assume jurisdiction in this matter over Plaintiffs' claim;
14 2. That the Court award Plaintiff damages against Defendant in an amount to
15 be determined at trial;
16 3. That the Court award Plaintiffs the costs, disbursements, and attorney's
17 fees incurred in pursuing this action; and
18 4. That the Court awards such other relief as it may deem just and equitable.
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21 DATED: January 7, 2022

LAW OFFICES OF JOSEPH W. CREED

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24 By: /s/ Lisa R. Elliott

Lisa R. Elliott, WSBA #41803
Joseph W. Creed WSBA #42451
Attorneys for Plaintiff
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